

STATE/FEDERAL MITIGATION BANK REVIEW TEAM PROCESS: REVIEW FLOWCHART

DMBI = Draft Mitigation Banking Instrument

MBI = Mitigation Bank Instrument

MBRT = Mitigation Bank Review Team

MSA = Mitigation Service Area

PACP = Pre-Application Coordination Phase

RAI = Request for Additional Information

A. FIRST CONTACT

A1. Banker's initial inquiry forwarded to MBRT Chair.

- Chair adds project to MBRT forum agenda and notifies applicant of pre-application information requirements (**See Appendix C**).
- Chair sends banker guidance package on State/Federal MBRT process and copies MBRT members. **The Corps is currently developing a sample Conservation Easement and Restrictive Covenant that will be attached to this document once approved.**

A2. Banker's submittal of pre-application prospectus to begin the Pre-Application Coordination Phase (**See Appendix C**).

- **Banker sends information on pre-application checklist and prospectus to MBRT members at least 14 days prior to MBRT Forum.**
 - Go to B – MBRT Forum.

B. MBRT FORUM

- Banker presents project and receives informal MBRT feedback. Provided that a complete prospectus was submitted in advance, MBRT members should be prepared to take a position on:
 - Bank site is/is not appropriate.
 - Long-term sustainability of the bank is/is not feasible.
 - Mitigation plan is/is not appropriate/feasible.
 - Banker's proposed method to assess functional lift is/is not acceptable (ratio, WRAP, HGM - actual scoring later in process).
 - Basis for Mitigation Service Area limits is/is not appropriate (may fine tune map later).
 - Chair captures preliminary MBRT decisions in memo to all participants within 7 days.

B1. CONSENSUS – Bank concept is INAPPROPRIATE.

- *Go to C – Agency Written Comments/Recommendations.*

B2. NO CONSENSUS.

- *Go to C – Agency Written Comments/Recommendations.*

B3. CONSENSUS – Bank concept is APPROPRIATE.

(NOTE: A site visit may be needed before MBRT members are able to address these issues.)

C. WRITTEN COMMENTS: Within 30 days MBRT members provide written comments to MBRT Chair, which indicate their agency recommendation(s). Non-consensus letters should specify issues and suggest remedies.

C1. CONSENSUS – Bank concept is INAPPROPRIATE.

- *Go to F – Bank Concept Inappropriate*

C2. NO CONSENSUS.

- *Go to D - Rebuttal / Revisions Submitted.*

D. BANKER REBUTTAL / REVISIONS SUBMITTED.

- At least 14 days prior to a future MBRT forum, Banker may submit rebuttal or revisions to MBRT members.
- *Go to E – MBRT Forum.*

E. MBRT FORUM

- Banker may present rebuttal.
- MBRT attempts to reach consensus.
- Chair captures final MBRT decisions in memo to all participants.

E1. CONSENSUS – Bank concept is INAPPROPRIATE.

- *Go to F – Bank Concept Inappropriate.*

E2. CONSENSUS – Bank concept is APPROPRIATE.

- *Go to H – Bank Concept Approved.*

E3. NO CONSENSUS.

- *Go to G – Dispute Resolution Procedure.*

F. BANK CONCEPT INAPPROPRIATE - MBRT Chair notifies Banker and recommends remedies for consensus. Banker may submit revised prospectus for reconsideration by MBRT if project can be modified to address agency issues.

- *Go to B – MBRT Forum*

G. DISPUTE RESOLUTION PROCEDURE per federal guidance paragraph IIC.6.a (District Engineer makes final determination.)

G1. Bank concept is INAPPROPRIATE.

- *Go to F – Bank Concept Inappropriate.*

G2. Bank concept is APPROPRIATE. Banker recognizes that fully-executed Banking Instrument for current version of the proposal is unlikely.

- *Go to H – Bank Concept Approved.*

H. **BANK CONCEPT APPROVED.** PACP is now complete.

- Banker begins preparation of DMBI and submits proposed Conservation Agreement and Stewardship Agreement for MBRT review by Legal Counsels.
- Schedule site visit.
- Go to I – MBRT Site Inspection.

I. **MBRT SITE INSPECTION**

- Wetlands delineation verified by the Corps of Engineers.
- Using the agreed upon functional assessment method, MBRT confirm the proposed ecological lift between the without-bank and with-bank scenarios.
- MBRT provides additional informal feedback to Banker to aid in preparation of the final spreadsheet on available credits - use information for the DMBI.
- *Go to J – MBRT Input.*

J. **MBRT INPUT**

- Banker submits DMBI (**SEE BANKING INSTRUMENT OUTLINE**) to MBRT members.

J1. DMBI is INCOMPLETE.

- *Go to K – Completeness Loop.*

J2. DMBI is COMPLETE.

- *Go to L – Public Notice.*

K. **COMPLETENESS LOOP**

- MBRT agencies request additional information within 30 days.
- All MBRT members will strive to coordinate completeness concerns with MBRT Chair.
- MBRT Agencies will combine concerns for a joint Request for Additional Information.
- Request the Banker provide additional information.

K1. DMBI is INCOMPLETE.

- *Repeat K (Completeness Loop)*

K2. COMPLETE DMBI is received.

- *Go to L – Public Notice.*

L. PUBLIC NOTICE: Within 15 days of receipt of complete DMBI, the MBRT Chair issues a Department of the Army Public Notice with 30-day comment period.

L1. No substantive public or MBRT member objections = DMBI accepted.

- *Go to P – MBI Signature.*

L2. Substantive public objection or MBRT member objection received.

- Within 15 days of close of comment period, MBRT Chair formally coordinates Public Notice and/or DMBI comments with Banker and recommends remedies.
- At least 14 days prior to MBRT Forum, Banker submits formal response to Chair with copies to all MBRT members.
- *Go to M – MBRT Forum.*

M. MBRT FORUM

- Banker may present rebuttal.
- MBRT attempts to reach consensus.
- Chair captures MBRT decisions in memo to all participants.

M1. CONSENSUS – BANK is INAPPROPRIATE.

- *Go to N – Final Action by MBRT Chair.*

M2. NO CONSENSUS.

- *Go to O – Dispute Resolution Procedure.*

M3. CONSENSUS - BANK is APPROPRIATE.

- Banker revises DMBI to meet with MBRT consensus.
- *Go to P – MBI Signature.*

N. BANK is INAPPROPRIATE per consensus of MBRT.

- The MBRT Chair will take final action on the application.

O. DISPUTE RESOLUTION PROCEDURE per federal guidance paragraph IIC.6.a (District Engineer makes final determination.)

O1. Bank concept is INAPPROPRIATE.

- *Go to N – MBRT Chair takes final action.*

O2. MBRT CONSENSUS CANNOT BE REACHED.

- Banker realizes that fully executed MBI is unlikely and 404(q) elevation of the permit application is possible.
- *Go to P – MBI Signature.*

P. FINAL MBI CIRCULATED FOR SIGNATURE.

